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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/918,165 | 07/30/2001 | Jurgen Wirth | Mo-6423 HE-161 | 2125 |
| 157 | 7590 | 02/24/2004 | EXAMINER | |
| BAYER POLYMERS LLC 100 BAYER ROAD PITTSBURGH, PA 15205 | | | DEL SOLE, JOSEPH S | |
| | | | ART UNIT | PAPER NUMBER |

1722

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/918,165

Applicant(s)

WIRTH ET AL.

Examiner

Joseph S. Del Sole

Art Unit

1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5, 7, 10 and 11 is/are rejected.
- 7) ☒ Claim(s) 6, 8, 9 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. This application contains claims 1-4 drawn to an invention nonelected with traverse in the Office action of 8/27/03. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 5, 7, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buckley (5,338,169) in view of Castelli (3,669,328).

Buckley teaches a device having a bearing seat for coils of continuous threads or rovings (Fig 1, #3); a guide for the continuous thread or rovings which leads the threads or roving from the bearing seat to a movement controlled introducing device and ends at a cutting unit (Fig 1); the movement controlled introducing device for introducing a liquid stream (Fig 1, #2); the cutting unit with a conveying device (Fig 1, #20); the guide has a rigid pipeline system (Fig 1, #28); the guide on the introducing device is separated from the rigid pipeline system (Fig 1; the claim is open to multiple interpretations here because claim 5 states that the "guide... comprises... a rigid pipeline system" and claim 7 states that "the guide... is separated from the rigid pipeline system", therefore the Examiner interprets the claims such that the guide is comprised of multiple structures that are separable); the rigid pipeline system has pipe bends and an air inlet (Fig 1, #28, the same opening for the threads allows air) arranged behind at least one of the pipe bends; and the guide has at least one conveying air inlet (Fig 1, #28, since the guide is comprised of a rigid pipeline system, the same air inlet in the pipeline is a conveying air inlet for the guide, however the cutter also has an inlet which reads on the claimed conveying air inlet).

Buckley fails to teach the rigid pipeline system having at least one tensioning air inlet directed against the conveying direction.

Castelli (3,669,328) teaches a rigid pipeline system (Fig 3, A and Fig 4, B) having at least one tensioning air inlet directed against the conveying direction (Fig 3, #3 and Fig 4, #15) for the purpose of controlling the movement of the fiber, including braking (col 2, line 61 - col 3, line 3).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Buckley with a tensioning air inlet directed against the conveying direction as taught by Castelli because it enables greater control of the movement of the fiber.

6. Claims 5, 7, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buckley (5,338,169) in view of Peat et al (1469533).

Buckley teaches a device having a bearing seat for coils of continuous threads or rovings (Fig 1, #3); a guide for the continuous thread or rovings which leads the threads or roving from the bearing seat to a movement controlled introducing device and ends at a cutting unit (Fig 1); the movement controlled introducing device for introducing a liquid stream (Fig 1, #2); the cutting unit with a conveying device (Fig 1, #20); the guide has a rigid pipeline system (Fig 1, #28); the guide on the introducing device is separated from the rigid pipeline system (Fig 1; the claim is open to multiple interpretations here because claim 5 states that the "guide... comprises... a rigid pipeline system" and claim 7 states that "the guide... is separated from the rigid pipeline system", therefore the Examiner interprets the claims such that the guide is comprised of multiple structures

that are separable); the rigid pipeline system has pipe bends and an air inlet (Fig 1, #28, the same opening for the threads allows air) arranged behind at least one of the pipe bends; and the guide has at least one conveying air inlet (Fig 1, #28, since the guide is comprised of a rigid pipeline system, the same air inlet in the pipeline is a conveying air inlet for the guide, however the cutter also has an inlet which reads on the claimed conveying air inlet).

Buckley fails to teach the rigid pipeline system having at least one tensioning air inlet directed against the conveying direction.

Peat et al teach a rigid pipeline system (Fig 1) having at least one tensioning air inlet directed against the conveying direction (Fig 1, #4) for the purpose of tensioning and taking up slack in fiber conveyed (page 4, lines 44-47).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Buckley with a tensioning air inlet directed against the conveying direction as taught by Peat et al because it enables greater control of the movement of the fiber, including tensioning and taking up slack.

Allowable Subject Matter

7. Claims 6, 8-9 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or suggest the subject matter as set forth in the Office action of 8/27/03.

Response to Arguments

8. Applicant's arguments filed 11/24/03 have been fully considered but they are not persuasive.

The Applicant's amendments to the specification and the drawings have overcome the objections drawn thereto in the Office action of 8/27/03.

The Examiner acknowledges the Applicant's intent to amend the title before allowance of the application.

The Examiner acknowledges the Applicant's intent to cancel claims 1-4 upon allowance of the application. As stated above, a cancellation of the non-elected claims is required in a response to this Final Office action.

The Applicant argues that Buckley does not teach or suggest the conveying device on the cutting unit required in the invention.

The Examiner disagrees. As stated in the Office action, Buckley does teach a conveying device and a cutting unit. Buckley merely fails to teach tensioning air directed against the conveying direction. The cutting and conveying device is indicated by reference numeral 20. Therefore the conveying device attached to the cutter is taught by primary reference Buckley.

The Applicant argues that Buckley does not teach discontinuance of the chopping of the roving when the mold is filled and moved and that further Buckley is silent with respect to the looping problem addressed by Applicant's claimed invention.

The Applicant's arguments are moot because these limitations are neither claimed nor are they structural limitations as is appropriate for an apparatus claim; they are process limitations which have no weight in an apparatus claim.

The Applicant argues that the types of molded articles and fibers being produced by Buckley are different from those produced by Applicant's apparatus and that the Applicant's invention is directed to production of plastic articles reinforced with long fibers while Buckley uses short fibers.

Again, these arguments are moot. Limitations directed to the material shaped or the article produced, whether or not they are claimed, do not further limit a structural claim. The Applicant's arguments must be directed to the differences between the structure claimed and the structures taught by the cited prior art.

The Applicant argues that Castelli does not teach or suggest the conveying device on the cutting unit.

The Examiner disagrees in so much as the conveying device is taught by Buckley to be on the cutting unit. Castelli is merely cited in combination with Buckley to teach that it is obvious to have a tensioning air inlet directed against the conveying direction for the purpose of controlling fiber movement. Therefore a combination of Buckley with Castelli teaches the claimed invention. The Applicant fails to structurally claim the cutting device and conveying device in such a manner as to overcome the prior art.

The Applicant argues that Peat et al fails to teach or suggest the conveying device attached to a cutter, which is missing from Buckley.

Art Unit: 1722

The Examiner disagrees for the reasons stated above: the limitation is not missing because Buckley teaches a conveying device attached to a cutter (Fig 1, #20).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

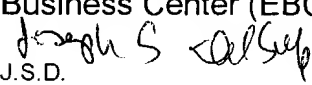
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Correspondence

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Joseph S. Del Sole whose telephone number is (571) 272-1130. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wanda Walker, can be reached at (571) 272-1151. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for both non-after finals and for after finals.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from the either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll-free).


J.S.D.
February 9, 2004


ROBERT DAVIS
PRIMARY EXAMINER
GROUP 1300 / 1700

2/12/04